

ST 99-0203-GIL 06/22/1999 LEASING

In Illinois, lessors of automobiles under true leases for periods in excess of one year owe Use Tax "up-front" when they purchase motor vehicles for leasing purposes.

June 22, 1999

Dear Xxxxx:

Thank you for your letter of June 8, 1999. In your letter you have made inquiry about the taxes associated with leased vehicles. Your letter states:

My husband and I leased a car in June of 1997 and paid Motor Vehicle Use Tax to the State of Illinois in the amount of \$1,125. At the end of our lease, we decided to purchase this vehicle and to our amazement, we had to pay Motor Vehicle Use Tax again in the amount of \$857.62.

In our opinion, this is totally unfair practice. Why should we have to be taxed twice on the same vehicle?

We have always paid our taxes; however, feel that being taxed twice on the same vehicle is out of line.

It is unfair to tax someone twice on the same item.

Please take the time to look into this for us. Thank you.

I understand your concern that you may have been taxed twice on your automobile. Although it appears that you were "double taxed," the charge which you originally paid was in all likelihood not a tax imposed upon you, but rather a reimbursement charge which you agreed to pay under your leasing contract. Generally, what happens in situations such as yours is that the auto dealer is taxed on his purchase price of the vehicle that he leases to you. The dealer, through his leasing contract, requires that you pay this amount to him as part of the lease agreement. Therefore, as a technical legal matter, you haven't been charged a tax on this initial transaction. In contrast, the tax which you paid upon buying this vehicle at the end of the lease period was properly due from you. All this being said, I realize that as a practical matter, my explanation doesn't provide you with much comfort since you've still had to pay out the money.

In Illinois, lessors of automobiles under true leases for periods of more than one year owe Use Tax "up-front" when they purchase vehicles for leasing purposes. They are deemed to be the end users of the automobiles and incur Use Tax on their cost price of the automobiles. See the enclosed copy of 86 Ill. Adm. Code 130.220.

June 22, 1999

Because the Use Tax is imposed only upon lessors, and because the State of Illinois does not impose a tax on rental receipts, you, as the lessee, incur no tax liability under true leases. Furthermore, lessors are not legally authorized to collect a "tax" from lessees. However, lessors generally recoup their Use Tax liability by contractually requiring lessees to "reimburse" them for their tax liability. Contractual provisions of this type are customary in the leasing industry. It is likely that upon review of your leasing agreement, you will discover that you have agreed to reimburse your lessor for his Use Tax liability. In other words, the amount you paid to title the vehicle was not a tax imposed by law upon you, but was instead a reimbursement charge which you agreed to pay as part of your lease agreement.

When the lessor sold you the vehicle at the end of the lease period, he incurred a Retailers' Occupation Tax liability. Illinois sales tax laws specifically impose this tax upon automobile lessors when they sell automobiles coming off lease. This law was enacted in 1977 at the insistence of the automobile dealers. At that time, most dealers weren't in the auto leasing business. In those days, most auto leasing was done by the big national car rental companies who made short term rentals. This legislation was enacted to prevent the car rental companies from gaining an unfair advantage, in the perception of the dealers, over retail dealers selling preowned cars.

Lessees often believe that they are "double taxed," and I certainly understand why you find it upsetting. However, under the current state of the law, I can't tell you that this result is legally incorrect. I'm sorry to have to provide you with what I realize sounds like a rather "bureaucratic" answer to your simple questions. I hope that the information provided above helps you to understand the distinct nature of each transaction, as well as the different tax liabilities that attach to each transaction. If you have additional questions, please feel free to contact the Department's Taxpayer Information Division at (217) 782-3336 or visit our web site at www.revenue.state.il.us.

Sincerely,

Glen L. Bower
Director of Revenue

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